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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD

A G E N D A

**MINUTES**

The New Motor Vehicle Board ("Board") held a General meeting on January 8, 2002, at the Sheraton Gateway Hotel, Los Angeles Airport, Grand Ballroom A, 6101 West Century Boulevard, Los Angeles, California.

2. **ROLL CALL**

Tom Flesh, President of the Board, called the General meeting to order at 9:10 a.m.

Present:	Wendy Brogin	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	Frederick E. (Fritz) Hitchcock	Robin P. Parker
	Alan J. Skobin	Senior Staff Counsel
	Solon C. Soteras	
	Glenn E. Stevens (arrived 10:00 a.m.)	
	David W. Wilson	

Absent: Edward Bayuk

3. **APPROVAL OF THE MINUTES FROM THE NOVEMBER 20, 2001, GENERAL MEETING, AND DECEMBER 12, 2001, SPECIAL MEETING**

Mr. Soteras moved to adopt the November 20, 2001, General Board meeting minutes. Mr. Wilson seconded the motion. The motion carried unanimously.

Mrs. Brogin moved to adopt the December 12, 2001, Special Board meeting minutes. Mr. Hitchcock seconded the motion. (Note: this item was subsequently revisited to clarify that Mr. Soteras should have been credited with the second.) The motion carried unanimously.

4. **DISCUSSION OF DEALER/MANUFACTURER RELATIONS BY RONALD F. SOBRERO, GENERAL MANAGER, DEALER RELATIONS, VEHICLE SALES, SERVICE AND MARKETING, GENERAL MOTORS CORPORATION - BOARD DEVELOPMENT COMMITTEE**

Ron Sobrero, General Manager, Dealer Relations, Vehicle Sales, Service and Marketing, General Motors Corporation, made a presentation to the members concerning dealer/manufacturer relations, the franchise system, and the future of Oldsmobile. Mr. Sobrero was available to answer member questions. Frank Dunne, Executive Director of Vehicle Sales, Service and Marketing, General Motors Corporation, was also available to answer member questions.

3. **APPROVAL OF THE MINUTES FROM THE NOVEMBER 20, 2001, GENERAL MEETING, AND DECEMBER 12, 2001, SPECIAL MEETING**

Mr. Flesh requested that agenda item 3 be revisited.

Mr. Skobin requested that the November 20, 2001, General meeting minutes make clear that with regards to agenda items 5, 9, and 10, only the public members voted, even though the dealer members may have commented. Mr. Stevens moved to adopt the November 20, 2001, General Board meeting minutes as amended. Mrs. Brogin seconded the motion. The motion carried unanimously.

With regards to the December 12, 2001, Special Board meeting minutes, Mr. Flesh wanted to clarify that it was Mr. Soteris and not Mr. Hitchcock that seconded Mrs. Brogin's motion to adopt the minutes. Messrs. Hitchcock, Skobin, and Wilson abstained from voting because they were not present at the December 12, 2001, Special meeting.

5. **ANNUAL UPDATE ON BOARD CONSUMER MEDIATION PROGRAM - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning an annual update of the Consumer Mediation Services Program. Mr. Novi reported that approximately 9,000 calls were received and 625 mediation cases were opened for fiscal year 2000-2001. Furthermore, 37% of the cases were resolved to the consumers' satisfaction. From the prior fiscal year, the volume of calls increased approximately 10%.

6. **SEMI-ANNUAL UPDATE CONCERNING THE NUMBER OF MONTHLY HITS TO THE BOARD'S WEB SITE AND WHERE INFORMATION IS BEING SOUGHT - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning a semi-annual update on user "hits" to the Board's web site. Mr. Novi indicated

that the number of “hits” to the web site is up 10% from last year. The top three web pages visited are the home page, frequently asked questions, and the mediation services program. The staff had suggested that this report be changed to an annual report. However, Mr. Flesh wanted to maintain the update as a semi-annual report.

7. **CONSIDERATION OF OUT-OF-STATE TRAVEL FOR PUBLIC MEMBERS FOR FISCAL YEAR 2002-2003 - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi concerning out-of-state education opportunities for Public members. The agenda indicates that this matter has been assigned to the Administration Committee, however, this really concerns the Board Development Committee. Mr. Novi indicated that the dealer members typically attend out-of-state educational programs as part of their dealer management responsibilities. It is difficult for Public members to attend out-of-state conferences because out-of-state travel requires specific budget authorization for individual trips along with DMV and Business, Transportation & Housing Agency approval.

It was recommended that the Board request five additional out-of-state trips for its Public members beginning in fiscal year 2002-03. Mr. Skobin moved to adopt the recommendation but requested that the Board seek nine additional out-of-state trips. Mr. Soteras seconded the motion. The motion carried unanimously.

Mr. Novi reported that the Board received approval for two Public Board members to attend the National Automobile Dealers Association’s annual meeting in late January 2002. Mr. Novi suggested that the Board decide who should attend. Mrs. Brogin abstained as did Mr. Soteras from attending this conference. The dealer members may attend as part of their dealer responsibilities but will not seek reimbursement. Messrs. Flesh and Stevens will attend the conference representing the Board.

8. **CONSIDERATION OF WHETHER TO REQUEST THE DEPARTMENT OF**

**MOTOR VEHICLE?S TO WITHHOLD RENEWAL OF THE OCCUPATIONAL LICENSE OF THOSE ENTITIES THAT DID NOT RESPOND TO THE BOARD?S NUMEROUS REQUESTS TO FILE THE STATUTORILY REQUIRED NOTICES, SCHEDULES, OR FORMULAS (VEHICLE CODE SECTIONS 3064, 3065, AND 11713.3(O) AND PAY THE ANNUAL BOARD FEE (13 CALIFORNIA CODE OF REGULATIONS SECTION 553) - ADMINISTRATION COMMITTEE**

- a. Notices, Schedules, and Formulas.
  - (1) Aerotech Motorsports
  - (2) Image Customs Motorcycle Company, Inc.
  - (3) Ladder Towers dba American La France Aerials
  - (4) Zapworld Com
- b. Annual Board Fee.
  - (1) Image Customs Motorcycle Company, Inc.

The members were provided with a memorandum from Tom Novi and Robin Parker concerning manufacturer compliance with filing statutorily required notices, schedules, or formulas, and paying the annual Board fee. Ms. Parker reported that as of November 20, 2001, 32 licensees still had not complied with the Board's request for statutorily required notices, schedules, and formulas. Follow-up letters were sent to 10 licensees in late December. As of the Board meeting, all licensees had complied. With regards to the annual Board fee, by late December 2001, all but four licensees had paid the annual fee. As of the Board meeting, all licensees had paid their annual fee. Image Customs Motorcycle Company, Inc. requested a waiver of the annual fee because they do not have a dealer network. As a result of the September 6, 2001, General meeting, manufacturers/distributors that lack a dealer network and/or do not sell product in California were granted a waiver of the annual Board fee. Image Customs' request would be granted and handled administratively by the staff.

9. **CONSIDERATION OF TOPICS AND SPEAKERS FOR BOARD MEMBER EDUCATION - BOARD DEVELOPMENT COMMITTEE**

The members were provided with a memorandum from Tom Novi, Kathy Tomono, and Polly Rowsey concerning suggested topics and speakers for Board member education in 2002. Mr. Novi indicated that the Board members should feel free to suggest topics to the staff. It was suggested that member education concerning the Political Reform Act and the filing of their Statement of Economic Interests be agendized for the March 12, 2002, General meeting.

10. **CONSIDERATION OF MODIFYING THE BOARD?S PARLIAMENTARY**

**PROCEDURES TO REFLECT THAT THE OFFICES OF BOARD PRESIDENT  
AND VICE PRESIDENT SHOULD INCLUDE AT LEAST ONE PUBLIC MEMBER-  
POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker concerning the composition of the President and Vice-President positions of the Board. Mr. Novi reported that a potential problem arises if both the President and Vice-President are dealer members because dealer members are excluded from most quasi-judicial matters. Mr. Skobin indicated that while he is very much in favor of having at least one of the two positions held by a Public member, he cited a number of instances where it would not be good public policy to have a rule, as opposed to relying upon the good judgment of the Board members who would consider all of the relevant facts and circumstances at that time. Mr. Soteras commented that there are instances in which the Board would not have a dealer and public member that would serve as President and Vice-President. It was pointed out that in the event such a problem occurred, the gavel could be passed to a Public member on an ad-hoc basis. The memorandum's recommendation that the Board's Parliamentary Procedures be modified to require that either the Board's President or Vice-President be a Public member died for lack of a motion.

11. **CONSIDERATION OF 2002 RULEMAKING CALENDAR - POLICY AND  
PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker concerning the Board's 2002 Rulemaking Calendar. Ms. Parker reported that there were no new regulations being proposed this year. The calendar reflects rulemaking that was approved in 2001 but not completed and/or commenced. Mrs. Brogin moved to adopt the Rulemaking Calendar. Mr. Wilson seconded the motion. The motion carried unanimously.

12. **SEMI-ANNUAL REPORT ON STATUS OF REVISIONS TO THE ASSIGNMENT  
OF CASES TO BOARD ADMINISTRATIVE LAW JUDGES - POLICY AND  
PROCEDURE COMMITTEE**

Ms. Parker reported that at the September 12, 2000, General meeting, the members adopted a revised procedure for assigning cases to the Board's Administrative Law Judges, and asked that staff update the Board periodically on how the new procedure was working. Ms. Parker indicated that the procedure was working well and suggested that the status report be provided annually instead of semi-annually. There was general concurrence with this suggestion. The staff will immediately report any problems that arise with this procedure and future reports will be annually.

13. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code Sections 3060 and 3062.
- g. Other.

Mr. Novi provided the members with a Report on Administrative Matters which identified all pending projects, the Board staff and committee assigned, estimated completion date, and status. Mr. Novi reported that on January 7, 2002, the Board was invited to attend a ceremony at the NUMMI plant in Fremont along with Agency Secretary, Maria Contreras-Sweet. Dawn Kindel attended on the Board's behalf as did Joseph Putnam, former dealer member.

The members were also provided with a copy of the Executive Director's Report. Ms. Parker reported that since the report was prepared, an additional 3062 establishment protest had been filed and two 3060 modification protests had been dismissed.

#### 14. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), the Board shall convene in a closed Executive Session.

#### **CONSIDERATION OF THE GENERAL COUNSEL NOMINEE BY ALL BOARD MEMBERS - EXECUTIVE COMMITTEE**

The Board received the necessary exemption from the hiring freeze for the General Counsel position. Mr. Stevens moved to appoint Howard Weinberg to the position of General Counsel. Mr. Skobin seconded the motion. The motion carried unanimously.

#### 15. **OPEN SESSION**

Mr. Flesh announced that Howard Weinberg was unanimously approved as the Board's General Counsel.

#### 18. **2002 ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT AND APPOINTMENT OF COMMITTEE MEMBERS - EXECUTIVE COMMITTEE**

Mr. Soteras moved to nominate Fritz Hitchcock as President. Mr. Wilson seconded the motion. Mr. Soteras moved to close the nominations, with Mr. Wilson seconding. The motions carried unanimously. Mr. Skobin moved to nominate Glenn Stevens as Vice- President. Mrs. Brogin seconded the motion. Mr. Soteras moved to close the nominations, with Mr. Wilson seconding. The motions carried unanimously.

Mr. Hitchcock asked the members to specify their preferences for appointment to the various Board committees. This will be agendized for announcement at the next meeting.

The members commented about Mr. Flesh's exceptional service and dedication to the Board. Mr. Novi presented Mr. Flesh with a plaque from the staff in appreciation for his service as President. Mr. Flesh will now serve as President Emeritus.

At this time, the dealer members were excused from the meeting.

16. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(e)(1), the Board shall convene in a closed Executive Session.

**DISCUSSION AND ADVICE FROM LEGAL COUNSEL CONCERNING PENDING LITIGATION**

CALABASAS MOTORCARS, INC. vs. NEW MOTOR VEHICLE BOARD OF THE STATE OF CALIFORNIA; VOLVO CARS OF NORTH AMERICA, LLC., REAL PARTY IN INTEREST

Sacramento County Superior Court No. 01CS01662

The Public members of the Board convened in closed Executive Session to discuss the above-referenced pending litigation. Robin Parker, Senior Staff Counsel, discussed and advised the Public members concerning the pending litigation and was available to answer Public member questions.

17. **OPEN SESSION**

After the conclusion of closed Executive Session, the Public members went back into open session.

19. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately

12:40 p.m.

Submitted by

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TOM NOVI  
Executive Director

APPROVED: \_\_\_\_\_  
Frederick E. (Fritz) Hitchcock  
President  
New Motor Vehicle Board